THE HONOURABLE SRI JUSTICE
B.SESHASAYANA REDDY

WRIT PETITION NO.16909 of 2002

Disposed of on : 06-07-2006.

BETWEEN:

SMT.D.SUNITHA

.. PETITIONER

AND

THE COMMISSIONER OF PROH.
AND EXCISE, NAMPALLY STATION ROAD,
HYDERABAD AND OTHERS

.. RESPONDENTS

THE HONOURABLE SRI JUSTICE
B.SESHASAYANA REDDY

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ORAL ORDER:

This writ petition has been filed assailing the action of the respondents in issuing notices demanding the petitioner to pay Rs.5,11,790-00 towards the licence fee and interest for the excise year 1993-94.

The petitioner obtained a licence to run IMFL Retail Liquor Shop in the name and style of Sri Sai Krishna Wines, Lingampally Mandal, R.R. District for the excise year 1992-93. According to the petitioner, she did not obtain any licence to run the wine shop after the excise year 1993-94 and therefore she was not under obligation to pay any licence fee commencing from the excise year 1993-94.

The respondents filed counter affidavit. It is stated in the counter affidavit that the petitioner paid licence fee for the year 1993-94 at the old rates basing on some interim orders secured by the licencees from the High Court in W.P.No.15180 of 1993 and batch. Subsequently, the said writ petitions ended in dismissal and therefore proceedings have been initiated to recover the balance licence fees. Para 4 of the counter needs to be noted and it is thus:

> " 4. It is further submitted that in the year 1993-94 the Government vide their G.O.Ms.No.948, Revenue Excise-II Department dated 30-9-1993 have issued orders enhancing the licence fee of all the I.M.L.Shops. Accordingly, the licence fee of the I.M.L. shop of the petitioner has been enhanced from Rs.78,750=00 to Rs.2,50,000=00 per annum. Aggrieved by the enhancement of licence fee some of the I.M.L. licencees filed various writ petitions before the Honourable court and in a batch of writ petitions granted interim stay in W.P.No.15180 of 1993 and batch.
>
> Thus, the petitioner has paid licence fee for the year 1993-94 at the old rates as under:
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> Rs.11,250=00, Ch.No.2141, dt.11.10.1993, SBH, Gruhakalpa Branch.
> Rs.29,000=00, Ch.No.3315, dt.17.12.1993, SBH, Gruhakalpa Branch.
> Rs.40,250=00 Total
>
> On payment of licence fee at old rates the petitioner has continued the business. Later on the Hon'ble High Court in the above batch of W.P.No.15180 of 1993 dt.29.12.1993 has disposed the writ petitions in favour of the Government. Therefore, the petitioner is liable to pay the licence fee at the enhanced rates i.e., Rs.3,50,000=00. But the petitioner failed to pay the differential licence fee of Rs.2,09,750=00 for the year 1993-94. Hence, a demand notice was issued to the petitioner under A.P.R.R.Act through the S.H.O., Serilingampally for the recovery of the amount of Rs.2,09,750=00."

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Excise.

Learned counsel appearing for the petitioner submits that the petitioner did not obtain renewal of licence for the year 1993-94 and

therefore the petitioner is not liable to pay any licence fee. The respondents have specifically stated in their counter affidavit that the petitioner paid the licence fee for the year 1993-94 at the old rate and subsequent demands came to be issued on the dismissal of batch of writ petitions filed by some of the IMFL licencees.

In the facts and circumstances of the case, I am of the view that the notices served on the petitioner can be treated as show cause notices and thereby giving an opportunity to the petitioner to submit explanation as to how she is not liable to pay licence fee for the excise year 1993-94.

In the result, this writ petition is disposed of giving liberty to the petitioner to submit her explanation within two weeks from the date of receipt of a copy of this order and thereupon the respondents shall dispose of the representation in accordance with law.

Dt: 6-7-2006. (B.Seshasayana Reddy,J)

Tnb

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Dated: 06-07-2006.